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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,755

05/04/2005

Andreas Kursawe

30071/41010

6707

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7590

03/09/2009

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EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

03/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,755

Applicant(s)

KURSAWE, ANDREAS

Examiner

John L. Goff

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is in response to the amendment filed on 12/8/08.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Erich (WO 03/024861 with US 2004/0099379 used as a translation).

Erich discloses a device (and method) having a conveyance device capable of conveying containers to which at least one exchangeable labeling unit for containers may be connected. The conveyance device includes a carousel (1) and a rotation coordinating unit (38). The labeling unit includes a control unit (34). The conveyance device and labeling unit are capable of exchanging signals (Figure 1 and Paragraphs 0008, 0029, 0031, and Claim 21). The information conveyed by a signal between the conveyance device and labeling unit is considered "identification data" as any data from the labeling unit is considered to identify the labeling unit. This interpretation is consistent with the dictionary definitions submitted by applicants on 12/8/08.

Claim Rejections - 35 USC § 102/103

4. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bright et al. (EP 1122173).

Bright discloses a method and device for labeling containers. Bright teaches a conveyance device for conveying containers including a computer for transmitting and receiving data. Bright teaches at least one labeling unit for applying labels to conveyed containers including a computer apparently capable of transmitting and receiving data (Figures 5 and 6 and Paragraphs 0019, 0033, 0044, 0052, 0056, and 0093).

Regarding the limitation of an “exchangeable labeling unit”, the at least one labeling unit taught by Bright appears “exchangeable” as there is no description in Bright that the unit is somehow permanently installed, and Bright suggest using a number of different types of labels such that the limitations are considered met. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made that at least one labeling unit taught by Bright is exchangeable such that the device is useable with a number of different types of labels.

Regarding the limitation of “wherein at least identification data (I) of the labeling unit (3, 4, 5) can be transmitted to the conveyance device (2)”, Bright teaches the computer of the conveyance device receives transmitted data from the at least one labeling unit such as position and status of the components of the unit and status of the label wherein this transmitted data is considered to identify the at least one labeling unit as a labeling unit this interpretation consistent with the dictionary definitions submitted by applicants on 12/8/08. This data is also considered of the type required by claim 10.

Claim Rejections - 35 USC § 103

5. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bright in view of Erich.

Bright is described above in full detail. In the event Bright is considered to not necessarily include “exchangeable” labeling units the following rejection would apply. Erich is exemplary of a device similar to that of Bright wherein the labeling units are exchangeable for a different type of labeling unit depending upon the desired type of label construction (Paragraphs 0008, 0025, 0029, and 0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the at least one labeling unit taught by Bright such that the unit(s) are exchangeable as shown by Erich such that the device can use any different type of label construction desired.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bright (or Bright as modified by Erich) in view of Hashiguchi et al. (U.S. Patent Application Publication 2002/0161467).

Bright (or Bright as modified by Erich) is described in full detail above. Bright teaches both the conveyance device and at least one labeling unit include computers for controlling the device, e.g. components and sensors, and unit, e.g. components and sensors. Bright is not limited to any particular type of computer (Paragraphs 0051 and 0052). Hashiguchi is directed to an inexpensive production management system and system for checking operating conditions of product producing apparatuses. Hashiguchi teaches each of the apparatus of the overall device comprise a computer within a remote control unit (RCE) (3) which computer is capable of controlling the components and sensors of the apparatus, transmitting data to and from each of

the computers connected to different apparatus, capable of transmitting data over an internal computer network or internet connection by connecting with the network or internet, capable of storing transmitted information using internal memory (Figures 1 and 3 and Paragraphs 0001, 0004, 0009, 0011, 0013, 0049, 0050, 0054, 0057-0059, 0063-0067, and 0138). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the computer for each of the conveyance device and at least one labeling unit of Bright (or Bright as modified by Erich) a computer within an RCU as shown by Hashiguchi to form an inexpensive production management system for labeling the containers and system for checking operation conditions of the conveyance device and the at least one labeling unit with each computer capable of transmitting data back and forth between the device and unit.

Regarding claims 1-3, 10, 11, and 14, the conveyance device and at least one labeling unit taught by Bright as modified by Hashiguchi or (Bright as modified by Erich and Hashiguchi) transmits all operational, e.g. information regarding the operation of the device or unit via components and sensors, and product data, e.g. information regarding the containers and labels, between the two such that any of this operational and product data is considered identification data and meet the claim limitations. This interpretation is consistent with the dictionary definitions submitted by applicants on 12/8/08. This data is also considered of the type required by claim 10. In the event it is shown this is not necessarily "identification data" the following is noted. Hashiguchi further teaches each RCU is connected to a camera for monitoring the apparatus to which the RCU is connected whereby the computer transmits the images of the apparatus to any of the other computers on the network this information clearly

identification data as such is a specific image of the apparatus thereby meeting the claim limitations.

Regarding claims 4-7, 12, 13, and 15, Hashiguchi teaches each computer includes a unique IP address for connecting to the network. However, Hashiguchi teaches the IP addresses may be allocated dynamically by DHCP. Hashiguchi does not teach specifically where the transmission device, e.g. router, is located for allocating the IP addresses, it being noted the location of such transmission device is not critical (Paragraphs 0054 and 0138). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the transmission device taught by Bright as modified by Hashiguchi or (Bright as modified by Erich and Hashiguchi) on the conveyance device as only the expected results would be achieved whereby the conveyance device includes a transmission device that transmits at least one address information to the at least one labeling unit which at least one labeling unit includes memory for storing the address information. Regarding claim 5, the transmission device of the conveyance device is considered to include memory for several items of address information which can be transmitted, e.g. for two labeling units as taught by Bright. Regarding claims 6, 13, and 15, the transmission device for assigning the address information is provided exclusively for such, i.e. separate from the other computer transmission devices, also considered to intrinsically include different connections. Regarding claim 12, the transmission device intrinsically must transmit the address information to the labeling unit before any of the other components of the conveyance device transmit other information otherwise the labeling unit would not be connected to the network.

Response to Arguments

7. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

In view of applicants amendment the previous rejections over Swinburne (U.S. Patent 6,619,361) and Clusserath et al. (U.S. Patent 5,713,403) are withdrawn.

Applicant argues, "First, Applicants submit that Swinburne does not disclose "identification data of the labeling unit," as recited in the claims of the present application. A person having ordinary skill in the art understands that "identification data" means data that "identifies" the labeling unit, i.e., distinguishes one labeling unit from the others. This understanding is both supported by the ordinary meaning of the term "identification," as well as the specification of the present application. For example, the definition of "identification" set forth in the American Heritage® Dictionary for the English Language (copy attached) comprises "the act of identifying" or the "state of being identified." Moreover, the definition of "identify" (copy also attached) set forth in the American Heritage® Dictionary for the English Language is "to ascertain the origin, nature, or definitive characteristics of." Finally, paragraph [0009] of the specification of the present application is in conformity with these dictionary definitions when it described that "[t]he labeling unit has identification data which identifies the labeling unit. This may be, for example, the type of machine, the commission number, the software version number or the like." Such "identification data" helps identify, or distinguish, each labeling unit from the remaining labeling units."

The claims are not commensurate in scope with this argument. The claims do not require the "identification data" identify or distinguish each labeling unit from the remaining labeling

units. The claims do not require more than one labeling unit. Further, identification data is any data that identifies the unit as a labeling unit, e.g. information regarding the label supply. The dictionary definitions do not show identification to require any more than this nor does applicants specification specifically define identification data in such a manner to exclude this information as evidenced by the use of “for example” and “or the like” when setting forth exemplary “identification data”.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is (571)272-1216. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791